

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TANEL WOODWARD,	:	Civil No. 1:19-CV-2048
	:	
Plaintiff,	:	
	:	(Magistrate Judge Carlson)
v.	:	
	:	
CITY OF HARRISBURG, et al.,	:	
	:	
Defendant.	:	

MEMORANDUM AND ORDER

The background of this order is as follows:

The plaintiff, who is proceeding *pro se*, commenced this action by a complaint. (Doc. 1.) Defendant Sabo then filed a motion to stay, pending the resolution of the state criminal proceedings against the plaintiff. (Doc. 12.) Defendants Carter and City of Harrisburg then filed a motion to dismiss the *pro se* complaint. (Doc. 14.) In response, the plaintiff moved to file an amended complaint. (Doc. 17.)

We will permit the filing of an amended complaint since Rule 15(a) of the Federal Rules of Civil Procedure, which governs amendment of pleadings strongly favors amendment of pleadings, and provides that such leave to amend should be liberally granted “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Accordingly, IT IS ORDERED as follows:

1. On or before **November 30, 2020**, the plaintiff shall file an amended complaint in this case and serve this complaint upon the defendants.

2. We believe that this development has substantive significance for the parties with respect to the pending motion to dismiss and motion to stay filed by the defendants since, as a matter of law, an amended complaint takes the place of any prior complaint, effectively invalidating the prior complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case...."). Therefore, since the amended complaint is now a legal nullity, the defendants' respective motions to stay and to dismiss, (Docs. 12, 14), are DISMISSED as moot.

3. However, this leave to file a second amended complaint is granted without prejudice to the assertion of any defenses or dispositive motions that the defendants may believe are appropriate with respect to the second amended complaint.

SO ORDERED, this 10th day of November 2020.

/s/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge